



UNITED STATES DEPARTMENT OF COMMERCE
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CONTROL NUMBER FILING DATE PATENT UNDER REEXAMINATION ATTORNEY DOCKET NO.

EXAMINER

ART UNIT PAPER NUMBER

5

DATE MAILED:

ORDER GRANTING/DENYING REQUEST FOR REEXAMINATION

The request for reexamination has been considered. Identification of the claims, the references relied on, and the rationale supporting the determination are attached.

Attachment(s): ☐ PTO-892, ☒ PTO-1449, ☐ Other: _____

1. ☒ The request for reexamination is GRANTED.

RESPONSE TIMES ARE SET TO EXPIRE AS FOLLOWS:

For Patent Owner's Statement (optional): TWO MONTHS from the mailing date hereof. 37 CFR 1.530(b).
EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).

For Requester's reply (optional): TWO MONTHS from the date of service of any patent owner's statement. 37 CFR 1.535. **NO EXTENSION OF TIME IS PERMITTED.** If patent owner does not file a timely statement under 37 C.F.R. 1.530(b), no reply by requester is permitted.

2. ☐ The request for reexamination is DENIED.

This decision is not appealable. 35 U.S.C. 303(c). Requester may seek review by petition to the Commissioner within ONE MONTH from the mailing date hereof. 37 CFR 1.515(c). **EXTENSIONS OF TIME ONLY UNDER 37 CFR 1.183.**

In due course, a refund under 37 CFR 1.26(c) will be made to requester (listed below if not patent owner)
☐ by Treasury check, ☐ by credit to Deposit Account No. _____
unless notified otherwise. 35 U.S.C. 303(c).

(Third party requester's correspondence address)

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DECISION ON REQUEST FOR REEXAMINATION

A substantial new question of patentability affecting claims 1-10 of United States Patent Number 6,004,596 to Kretchman et al is raised by the request for reexamination.

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extension of time in reexamination proceedings are provided for in 37 CFR 1.550(c).

The request indicates that Requester considers that claims 1-10 of the Kretchman et al patent are either anticipated under 35 U.S.C. 102(b) or made obvious under 35 U.S.C. 103 over the Sollerud patent (U.S. Patent No. 3,782,270) as considered with the teaching of the Lee patent (U.S. Patent No. 2,780,163) in the manner suggested by the Requester. See pages 3-17 of the request.

It is agreed that the consideration of the Sollerud patent, either alone or in combination with the Lee patent, raises a substantial new question of patentability as to claims 1-10 of the Kretchman et al patent. The Sollerud patent discloses a sealed crustless sandwich which is made by placing a filling between two slices of bread, and then compressing the slices along their edges mainly at right angles to the plane of the slices such that the peripheral edges of the bread slices are bonded together with the aid of their starch content, while removing the remaining bread rests (see column 1, lines 58-62; column 1, lines 11-17; and column 4, line 9; and see

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Figures 1 and 5). The Lee patent shows a pie molding device having cutting edges formed with a continuous series of circumferentially spaced crimping teeth for trimming the edges of the pie and removing the excess dough, while tightly sealing the edges together. The teaching as to "sealing the filling of a crustless sandwich by crimping (compressing) the peripheral edges of the bread slices" was not present in the prosecution of the application which became the Kretchman et al patent. Further, there is a substantial likelihood that a reasonable examiner would consider this teaching important in deciding whether or not claims 1-10 of the Kretchman et al patent are patentable. Accordingly, the Sollerud patent, either alone or in combination with the Lee patent, raises a substantial new question of patentability as to claims 1-10, which question has not been decided in a previous examination of the Kretchman et al patent.

G. Yeung/dh

May 31, 2001



GEORGE C. YEUNG
PRIMARY EXAMINER

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for Form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				Complete if Known	
				Application Number	6,004,596 90/005,949
				Filing Date	December 31, 1999 03/09/01
				First Named Inventor	Kretchman et al.
				Group Art Unit	1761
				Examiner Name	E. Tran GEORGE C. YEUNG
Sheet	1	of	1	Attorney Docket Number	ALB 0102 R

U.S. PATENT DOCUMENTS

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FOREIGN PATENT DOCUMENTS

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Examiner Signature	<i>George Young</i>	Date Considered	<i>May 24, 2001</i>
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number. ² See attached Kinda of U.S. Patent Documents. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST 3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document.

* Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. * Applicant is to place a check mark here if English language Translation is attached.